



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/567,770

02/10/2006

Stuart Charles Lewis

16580US

5671

23676 7590 03/31/2010
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

EXAMINER

ZURITA, JAMES H

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

03/31/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,770	Applicant(s) LEWIS, STUART CHARLES	
	Examiner JAMES ZURITA	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plot must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figs. 1-4 have no reference numbers.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-32 are objected to because of the following informalities:

Claim 1 refers to "...a plot..." "...a new plot..." while later claims refer to [which?] "...the plot..." and ...a second plot... The antecedent basis is unclear.

Claim 31 should be directed to the method of claim 1.

Claims 30 and 31 do not make sense grammatically.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-32 contain the term **or**. The term renders the claims indefinite, since it is not possible to determine the scope of the claim as requiring both items or only one of the items separated by the or. For purposes of this examination, examiner will give the term its broadest reasonable interpretation and consider that the particular condition is satisfied if one of the limitations is met.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Art Unit: 3625

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-18 and 30-31, directed to methods, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Based on Supreme Court precedence see *Diamond v Diehr* 450 US 175,184 (1981); *Parker v. Flook*, 437 US 584,588,n. 9 (1978); *Gottschalk v Benson*, 409 US 63, 70 (1972); *Cochrane v Deener*, 94 US 780, 787-88 (1876) a 101 process must (1) be tied to another statutory class (such as an apparatus) or transform underlying subject matter (such as an article or materials) to a different state or thing. Since neither of these requirements is met by the claim the claim is rejected as being directed to non-statutory subject matter.

Claims 19-29, directed to an apparatus, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims would appear to refer to hardware, but the disclosures provide insufficient structural support for the claims. For purposes of this examination, the claim will be interpreted to not invoke the sixth paragraph. Prior art will be interpreted to read on applicant's claimed limitations where prior art discloses that the structure, e.g., a computer, is reasonable capable of performing the recited functions.

Allowable Subject Matter

Claims 1-18 and 20-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner's Reasons for indicating Allowable Subject Matter

The prior art neither anticipates nor renders obvious the combination, inter alia:

- determining an exposure attribute and one or remaining attributes of each media buying option to be displayed, wherein at least one of the attributes is an exposure attribute;

- displaying a plot of available media buying options, wherein the media buying options are plotted against a first axis corresponding to the exposure attribute and a second axis corresponding to the remaining attribute or one of the remaining attributes;

- in response to a displayed media buying option being selected or deselected for purchase,

- recalculating the exposure attribute for each media buying option to account for the exposure of the selected or deselected media buying option, and;

- displaying a new plot of the media buying options comprising the recalculated exposure attribute.

The closest US prior art is Cannon (US 6286005), which discloses an interactive environment for analyzing data such as media buying options in advertising. Cannon discloses optimization in data mining and using absolute values (e.g., Fig. 32-33).

However, Cannon neither anticipates nor renders obvious the combination, inter alia:

- determining an **first data point** and one or remaining **data points** of each media buying option to be displayed, wherein at least one of the **data points** is an **first data point**;

- displaying a plot of available media buying options, wherein the media buying options are plotted against a first axis corresponding to the **first data point** and a second axis corresponding to the remaining **data point** or one of the remaining **data points**;

- in response to a displayed media buying option being selected or deselected for purchase,

- recalculating the **first data point** for each media buying option to account for the exposure of the selected or deselected media buying option, and;

- displaying a new plot of the media buying options comprising the recalculated **first data point**.

The closest non –patent literature is Strehl, Relationship-based clustering and visualization for high-dimensional data mining, INFORMS, journal on Computing, Linthicum, Spring 2003, vol. 15, Iss. 2, p. 208, downloaded from ProQuest Direct on the

Art Unit: 3625

Internet on 02/22/2010. However, Strehl neither anticipates nor renders obvious the combination noted above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Strehl, Relationship-based clustering and cluster ensembles for high-dimensional data mining, University of Texas at Austin, PhD dissertation, 2002. Notice downloaded from ProQuest Direct on the Internet on 02/22/2010, 2 pages.

Stella So, Accounting Auditing and Accountability Journal, Bradford 2002, vol. 15, Iss. 4, p. 565. Downloaded from ProQuest Direct on the Internet on 02/20/2010, 27 pages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Zurita/
James Zurita
Primary Examiner
Art Unit 3625
27 March 2010